

(7) A retroactive claim for a release reported to the department prior to May 5, 1989, and after July 1, 1987, shall only be eligible if the owner or operator applying for benefits has not claimed bankruptcy anytime after July 1, 1987; a retroactive claim for a release reported to the department after January 1, 1984, but prior to July 1, 1987, shall only be eligible if the owner or operator applying for benefits has not claimed bankruptcy on or after January 1, 1985.

*e.* Claims filed with the board prior to February 26, 1994, for releases reported to the department after May 5, 1989, and on or before October 26, 1990, are remedial claims eligible for reimbursement subject to the following guidelines:

(1) After the owner/operator completes the claim form and has it notarized.

(2) When bills and estimates are received along with contracts, description of remedial plan and correspondence for budget approval on the work required by the department.

(3) When the work is complete or, if ongoing, as approved by the administrator and in accordance with priority rules.

(4) After the owner or operator has met deadlines and the department's technical requirements for cleanup. To be eligible, corrective action costs must be reasonable and necessary to complete the work required by the department. The board shall reimburse or pay only those corrective action costs which will cover the work as mandated by Iowa Code section 455B.471 et seq.

(5) Remedial claims shall be subject to copayments consistent with Iowa Code section 455G.9(4).

*f.* Remedial and retroactive claims may be paid monthly and will include all approved expenses, including tank and piping removal for active systems if the tank and piping removal occurs on or before March 17, 1999, and other costs as provided in Iowa Code chapter 455G. Cost of replacement materials excavated shall be a reimbursable expense. Contractors and groundwater professionals shall confirm that the work meets department of natural resources requirements.

*g.* The board shall reimburse or pay eligible expenses for remedial or retroactive benefits only if those expenses have been approved prior to the commencement of work, as required by Iowa Code section 455G.12A. No corrective action costs shall be reimbursed unless reasonable, necessary and approved by the board or its designee.

*h.* When practical to do so, the board shall bid any work associated with this chapter with firms which have indicated to the administrator an interest to be on the board's list of firms supplying goods or services. To be eligible for inclusion in the vendors list, the firm shall have appropriate registration as a groundwater professional. Any firm supplying goods and services including, but not limited to, testing laboratories, cleanup equipment manufacturers and leak detection testing firms may also be included in the vendors list.

*i.* Reimbursement to the owner, operator or contractor under this chapter is subject to overall site cleanup report prioritization and classification. Sites which are classified as low-risk are eligible for remedial account benefits for monitoring expenses required by Iowa Code section 455B.474(1) "f" "5," unless the tank is removed, upgraded, or replaced. If the underground tank system is removed, upgraded or replaced, provisions outlined in IAC 591—11.5(455G) and 591—11.6(455G) shall apply.

*j.* All claims eligible for funding under Iowa Code section 455B.474 will be subject to available funding.

*k.* The board may appeal any adverse administrative law decision or court judgment.

*l.* Rescinded IAB 6/5/96, effective 7/10/96.

*m.* The board may ratify and approve any actions taken by the board or its designee which were consistent with the provisions of this subrule 11.1(3) without regard to whether this subrule was in effect at the time the actions to be ratified were taken.

*n.* One hundred percent of corrective action costs and third-party liability not to exceed \$1 million shall be reimbursed for a release for which the eligible claimant is subject to financial hardship if all of the following conditions are met:

(1) The claimant has completed the claim form, had it notarized, and submitted it to the board on or before December 1, 1996.

(2) Claimant is a small business as defined in Iowa Code section 455G.2(18) and has submitted self-certification forms documenting small business status.

(3) Claimant does not have a net worth of \$15,000 or greater and has submitted documentation of net worth in accordance with Iowa Code section 455G.10(4) and 591—subrule 12.10(3) or the claimant is an individual who is financially unable to pay copayments associated with the cost of corrective action as determined by using the department's evaluation of ability to pay found at 567 IAC 135.17(455B).

(4) The release for which the claim has been made occurred prior to October 26, 1990.

(5) The release for which the claim has been made was reported to the DNR on or before December 1, 1996.

(6) The site for which the claim is made is in compliance with all technical requirements of 567—Chapters 135 and 136.

(7) The site for which the claim is made shall not be deeded or quitclaimed to the state or board in lieu of cleanup.

(8) Property taxes shall not be delinquent, unpaid or otherwise overdue.

(9) A responsible party with the ability to pay corrective action expenses cannot be found.

(10) The release for which the claim is made is one for which the federal Underground Storage Tank Trust Fund or other federal moneys do not provide coverage.

(11) The work is complete or, if ongoing, is approved by the administrator or the board pursuant to the cost containment provisions of Iowa Code section 455G.12A.

(12) All claims and payments are subject to prioritization guidelines set forth in rule 591—11.7(455G).

*o.* An owner/operator eligible for remedial benefits who complied with 11.1(3) "b" by using program insurance authorized pursuant to Iowa Code section 455G.11 will remain eligible for remedial benefits even though the insured tanks were not upgraded by December 22, 1998, under the following conditions:

(1) The owner/operator temporarily closes the tanks in compliance with the closure requirements of the environmental protection commission 567—subrule 135.9(1) while the tanks are still insured under Iowa Code section 455G.11; and

(2) The owner/operator certifies the tanks continuously had financial responsibility coverage acceptable under 567—Chapter 136 from October 26, 1990, until the temporary closure; and

(3) The owner/operator certifies the tanks will be empty during the entire period of the temporary closure. Empty means all materials have been removed from the tanks using commonly approved practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3 percent of weight of the total capacity of the tank system, remain in the tank system; and

(4) The owner/operator certifies that during the entire period of the temporary closure vent lines will be left open and functioning and all other lines, pumps, manways, and ancillary equipment will be capped and secured.

(5) The owner/operator certifies that within one year from the time the tanks were temporarily closed, the tanks will either be permanently closed, removed and replaced, or upgraded; and

(6) The owner/operator certifies the upgraded tanks and replacement tanks will meet the new tank or upgrade standards of the environmental protection commission rule 567—135.3(455B); and

(7) The owner/operator certifies the upgraded tanks and replacement tanks will not be used until the owner/operator demonstrates proof of financial responsibility for the tanks using a method provided for under 567—Chapter 136; and

(8) The owner/operator meets all other applicable requirements pertaining to remedial benefits.

An owner/operator receiving remedial account benefits pursuant to this paragraph “o” will be subject to cost recovery pursuant to Iowa Code section 455G.13 in the event the owner/operator does not comply with all of the conditions of this paragraph “o,” the provisions of the certifications required by this paragraph “o,” and applicable statutes and rules of the environmental protection commission and the board.

*p.* The board may reimburse expenses associated with tank systems identified in 11.1(3) “a”(1) to (3) when all of the following conditions have been documented:

(1) The release for which benefits are being requested is from tanks operated on a site which is otherwise eligible for benefits under Iowa Code section 455G.9(1);

(2) The release for which benefits are being requested is commingled with an on-site release which is eligible for benefits under Iowa Code chapter 455G;

(3) The site has had active underground storage tanks continuously from the date of the release for which benefits are being requested until the date at which a release for which the site is currently eligible for benefits was reported to the department;

(4) The claimant certifies that the tanks for which benefits are being requested will be permanently closed within 90 days of notification of the eligibility and does permanently close the tanks in compliance with rule 567—135.9(455B) within the 90 days;

(5) All other eligibility requirements have been met.

*q.* An owner/operator of a site which is eligible for benefits under section 455G.9 who discovered a tank on the site after October 26, 1990, shall maintain eligibility for benefits even if that tank does not meet the financial responsibility requirements continuous since October 26, 1990, if all of the following conditions have been met:

(1) The tank was discovered after October 26, 1990;

(2) The tank has not been operated since the discovery and has never been operated by the claimant;

(3) The tank has been empty of all product since it was discovered;

(4) The tank was properly registered with the department when discovered;

(5) The tank is a regulated tank which previously contained only petroleum products as defined in this chapter;

(6) The tank is permanently closed within 90 days of discovery, or by July 1, 1995, whichever date is later.

*r.* Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements and must submit a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

**11.1(4) *Payments of financial responsibility claims.***

*a.* Payments under the financial responsibility account shall include claim and claim-related expenses incurred including adjusting, legal and professional fees. Legal fees do not include the costs associated with an insured hiring an attorney to qualify or to attempt to qualify for benefits hereunder.

*b.* Payment shall occur after program liability has been determined. The board may offer a settlement or deny a claim based on its individual merits. A claimant whose financial responsibility claim has been denied may appeal the denial. A claim may be settled or defended as provided for in the applicable section of the financial responsibility coverage.

*c.* The board may appeal any adverse administrative law decision or court judgment.

*d.* The board may approve of or hire all contractors and groundwater professionals on any claim submitted for payment hereunder. The board may negotiate cost for work to ascertain program exposure. The negotiation of the costs shall not be an admission of liability under this chapter. The terms and conditions of the financial responsibility document shall be reviewed and used as the basis of any liability associated with the financial responsibility account.

**11.1(5)** *Payment of benefits under Iowa Code section 455G.21(2)“a.”* Consistent with Iowa Code chapter 455G, the board may reimburse an owner of petroleum-contaminated property who is not otherwise eligible to receive benefits under Iowa Code section 455G.9 for eligible expenses not to exceed the benefits they would otherwise receive based upon the date the release was reported if they were eligible under Iowa Code section 455G.9(1)“a”(1) to (3), subject to the copayment requirements of Iowa Code section 455G.9(4), the requirement of 11.1(3), and subject to the available funding and limitations of the innocent landowner fund created by Iowa Code section 455G.21(2)“a.” for corrective action subject to the following priority:

*a. Late-filed retroactive claims.* For releases reported to the department on or after January 1, 1984, but prior to May 5, 1989:

(1) Claims must be filed with the board by February 26, 1994.

(2) All costs incurred on or after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

*b. Preregulation claims.* For releases from petroleum USTs which are not eligible for remedial account benefits under 455G.9(1)“a”(1) to (3) only because the USTs were taken out of use prior to January 1, 1974, or permanently closed or removed before July 1, 1985.

(1) Claims must be filed with the board by December 1, 1997.

(2) USTs have not been operated on the site since the time the tanks were taken out of use or permanently closed.

(3) All costs incurred after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

(4) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*c. Innocent landowner claims.* For releases reported by owners of petroleum-contaminated property as defined under 455G.9(9) who did not comply with the reporting or filing deadlines identified in this chapter with priority to those owners who did not have knowledge of the USTs or did not have control over the property.

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to the department consistent with the department requirements.

(3) The owner did not have knowledge of the UST or of a release impacting the property prior to acquisition of the property if the property was acquired on or after October 26, 1990, or if the owner did have such knowledge, the acquisition was necessary to protect a security interest.

(4) All costs incurred on or after July 10, 1996, must be approved by the board to be eligible for reimbursement.

(5) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*d. Acquired properties.* For releases reported by owners of petroleum-contaminated property as defined under 455G.9(9) who acquired the petroleum-contaminated property after October 26, 1990, and who did not comply with the reporting or filing deadlines identified in this chapter.

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to the department consistent with the department requirements.

(3) The owner could not have been the owner or operator of the UST system which caused the release prior to acquiring the property after October 26, 1990.

(4) All costs incurred on or after December 1, 1996, must be preapproved by the board to be eligible for reimbursement.

(5) For claims submitted under this paragraph, the precorrective action value shall be the purchase price paid by the owner after October 26, 1990.

(6) For claims submitted under this paragraph, the purchase must have been an arm's-length transaction.

(7) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*e. Other innocent landowner claims.* Claims for releases submitted to the board after December 1, 1997, which would have been eligible for benefits pursuant to paragraphs "a" through "d" of this subrule if filed by December 1, 1997, will be eligible for reimbursement subject to a first-in, first-out priority and the funding limitations of the innocent landowner fund. The owner must demonstrate that the owner has met all other requirements of this subrule in order to receive benefits.

*f. Compliance with report submittal deadlines.* To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements and must submit a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

**591—11.2(455G) Investigation of claims—remedial, retroactive and financial responsibility.**

**11.2(1)** All remedial, retroactive and financial responsibility claims shall be investigated and overall fund liability estimated.

**11.2(2)** Costs which are not reasonable, necessary or eligible shall not be paid. The budget for the work shall be submitted prior to the initiation of the work for approval by the board or its designee. Failure to obtain prior approval shall invalidate the board's and the owner's or operator's obligations as provided for under Iowa Code section 455G.12A.

**11.2(3)** Owner or operator compliance with regulatory and program requirements shall be evaluated as part of the investigation. The failure to meet regulatory and program standards shall not bar recovery hereunder. However, failure to meet regulatory and program requirements which exist at the time of payment may result in cost recovery claims as provided under Iowa Code section 455G.13.

**11.2(4)** Cause of loss and determination of responsible parties shall be ascertained as a part of the investigation process. Independent environmental consultants may be retained to assist in the determination of the cause of the release and for the application of coverage.

**11.2(5)** Other financial responsibility in effect at the time a claim is made shall be reviewed. If other coverage that covers environmental damage is in effect at the time a claim is made, the UST financial responsibility program under Iowa Code section 455G.11 shall be excess.

**11.2(6)** Subrogation and cost recovery opportunities shall be pursued against any responsible party, as deemed appropriate by the board to do so.

**11.2(7)** The administrator may retain, subject to board bidding requirements, an outside groundwater professional to assist in the evaluation of any financial responsibility claim presented under Iowa Code section 455G.11, up to \$3,000. Any expense in excess of that amount must be approved by the board at their next regularly scheduled meeting.

**591—11.3(455G) Other terms and conditions.**

**11.3(1)** The board shall publish its financial responsibility policy for public review and inspection.

**11.3(2)** Terms and conditions are as mandated under 567—Chapter 136, Iowa Administrative Code.

**11.3(3)** Cancellation for nonpayment is effective ten days after proof of mailing.

**11.3(4)** Premiums for extended coverage endorsement shall be 50 percent of policy annual premium. For the extended coverage endorsement to be effective, premium must be received prior to the expiration of the ten-day period from the expiration date of the policy. The extended coverage endorsement will cover only releases reported within the time frame outlined in the policy for releases occurring during the policy period. New releases shall not be covered. The board has no obligation of notifying individual insureds of this coverage as it is a part of each policy issued.

**11.3(5)** Supplementary payments coverage shall be limited to \$250,000 maximum per incident and in the aggregate for all losses during the coverage period.

**591—11.4(455B,455G) Tank and piping upgrades and replacements.**

**11.4(1) Definitions.**

*“Administrator”* means the Iowa comprehensive petroleum underground storage tank fund board administrator as provided in Iowa Code section 455G.5.

*“Automatic in-tank gauging”* means a device used for leak detection and inventory control in tanks that meet the department’s standards as set out in 567—paragraph 135.5(4) *“d.”*

*“Board or UST board”* means the Iowa comprehensive petroleum underground storage tank fund board as provided for in Iowa Code section 455G.4.

*“Department”* means the Iowa department of natural resources.

*“Environmentally sensitive site”* means, as classified under the Unified Soil Classification System as published by the American Geologic Institute or ASTM designation: D 2487-85, any site where the native soils outside or under the tank zone are materials where more than half of the material is larger than no. 200 sieve size. As used herein, tank zone means the native soils immediately outside the excavation area or nearest native soil under the tank.

The following classifications of soil descriptions are considered environmentally sensitive:

1. Well-graded gravels, gravel-sand mixtures, little or no fines, classified using the group symbol of “GW”;
2. Poorly graded gravels, gravel-sand mixtures, little or no fines, classified using the symbol of “GP”;
3. Silty gravels, gravel-sand-clay mixtures, classified using the symbol of “GM”;
4. Clayey gravels, gravel-sand-clay mixtures, classified using the symbol of “GC”;
5. Well-graded sands, gravelly sands, little or no fines, classified using the symbol “SW”;
6. Poorly graded sands, gravelly sands, little or no fines, classified using the symbol “SP”;
7. Silty sands, sand-silt mixtures, classified using the symbol “SM”;

In addition, environmentally sensitive sites include any site which is within 100 feet of a public or private well, other than a monitoring well on a site, and any site where the tank is installed in fractured bedrock or “Karst” formations. Any one of the above-specified conditions shall constitute an environmentally sensitive site under this rule.

A site shall be classified as environmentally sensitive when:

- Fifty percent or more of the soils from a boring or a monitoring well are logged and classified as one or more of the areas noted in paragraphs “1” through “7” and 50 percent of the total wells located on or immediately next to the property show the same or similar conditions. If no testing of the site has occurred and the soil condition as classified under the unified soil classification system in or under the tank zone is one of the conditions as classified, the site shall be considered to be environmentally sensitive. Reports previously prepared on the site and available from DNR may be used to make the soil classification. At least three borings/wells must have been completed. If fewer than three have been completed, an additional well which triangulates the tank zone shall be completed to determine the types of soils present.

- For the purposes of this definition, fractured bedrock or Karst formations appearing in the tank zone or piping run, or within a 25-foot diameter around the tank zone or piping run, or within 25 feet of the bottom of the tank excavation area shall be classified environmentally sensitive. Generally available data, including that available from local utilities, may be used when specific drilling has not determined that conditions specified in this definition have not been identified on the site. If the site shows any surface condition which is fractured bedrock or Karst, then the site shall be classified as being environmentally sensitive.

- For the purposes of this definition, wells are those which are in use and the water is being used for human consumption. The well as developed shall generate a volume of two gallons per minute, unless a holding device or cistern is used for water pumped. An abandoned well, or a well being used for some other purpose, shall not be included in the definition, unless the end use may be for human consumption.

*"Piping replacement"* means any modernization or modification of piping at a site which includes the removal of the existing piping and the installation of new piping.

*"Piping upgrade"* means any modernization or modification of piping at a site which does not include the removal of the existing piping and the installation of new piping.

*"System upgrade"* or *"Upgrading"* means the modernization or modification of underground storage tank system installations through tank and piping upgrades to comply with the rules of the department under 567—subrule 135.3(2).

*"Tank replacement"* means any modernization or modification of a tank at a site which includes the removal of the existing tank and the installation of a new tank.

*"Tank upgrade"* means any modernization or modification of a tank at a site which does not include the removal of the existing tank and the installation of a new tank.

*"Upgrade benefit"* means the cost of board-approved systems specified in subrule 11.4(6). If the installation includes a board-approved secondary containment system, the upgrade benefit relates specifically to the cost difference attributable to the board-approved system specified in subrule 11.4(6). The upgrade benefit includes the following:

1. Cost of double walled tanks and pipes minus the cost of single wall tanks and piping, or
2. Cost of double walled steel tanks minus the cost of single wall steel tanks, or
3. Cost of nonmetallic double walled tanks minus the cost of nonmetallic single wall tanks.

In addition, the upgrade benefit shall include the cost of the additional labor, if any, to install the board-approved system which is in excess of the cost to install a single wall system. The upgrade benefit also includes the cost of automatic in-tank gauging equipment when installed in conjunction with secondary containment, but such costs shall be limited to the lowest expense for the system best suited to provide a reasonable degree of protection.

If the system does not include the approved secondary containment, no upgrade benefit is payable. Secondary containment as defined in subrule 11.4(6) is mandatory after March 25, 1992.

**11.4(2)** The maximum upgrade benefit payable from the remedial fund on any tank or system installed since January 1, 1985, to meet upgrading requirements shall be \$10,000 for any one site, subject to applicable copayment requirements as specified in Iowa Code section 455G.9. Benefits payable under subrule 11.4(6) cover the additional cost of the tank system upgrade or replacement as set forth in the definition of upgrade benefits. Prior to installation, budgets shall be provided to the administrator outlining the cost and scope of work proposed and the cost differences between a single wall system and the board-approved system which is proposed. The cost of the original upgraded or new system without board-approved secondary containment as defined herein is not subject to these fund upgrade benefits for tank system upgrades or replacements.

**11.4(3)** The cost for system upgrading or replacement shall be separated from all other corrective action costs incurred on an individual site classified as high-risk or low-risk by the department. The upgrade benefits are not payable on any site classified by the department as a “No Action Required” site.

**11.4(4)** Upgrade benefit payments under subrule 11.4(6) shall be made upon evidence that the upgrade met standards in 567—Chapter 135 and the department registration Form 148 has been completed and mailed to the department and the administrator. These upgrade benefits shall be paid only if all requirements of 591—Chapter 15 have been met. If a site does not comply with the applicable provisions of 591—Chapter 15, the site is not eligible for these upgrade benefits unless installation or upgrade occurred prior to October 26, 1990. In that event, the individual reimbursement request will be reviewed to determine if other information is necessary before upgrade benefit payment can be made. In addition, the completed work must be within the budget previously approved by the administrator pursuant to Iowa Code section 455G.12A.

**11.4(5)** Upgrades and replacements allowed at contaminated sites. Iowa Code section 455B.474(1) “f”(8) provides the replacement or upgrade of tank systems on high- or low-risk sites must be equipped with a secondary containment system with monitoring of the space between the primary and secondary containment structures or other board-approved methodology. The following are the upgrade and replacement options which are board-approved for purposes of Iowa Code section 455B.474(1) “f”(8):

*a.* Tank upgrades. The following options are allowed for tank upgrades on any contaminated site:

(1) The tank meets the department’s new tank standards set forth in 567—paragraph 135.3(1) “a”;

or

(2) The tank meets the department’s upgrade standards set forth in 567—paragraphs 135.3(2) “b” and “d.”

*b.* Tank replacements. The following options are allowed for tank replacements:

(1) On any contaminated site, a double walled tank or a tank equipped with a secondary containment system meeting the department’s new tank standards set forth in 567—subrule 135.3(1) and with monitoring of the space between the primary and secondary containment structures in accordance with the department’s standards set forth in 567—paragraph 135.5(4) “g.”

(2) On any contaminated site which is not environmentally sensitive the following additional options are allowed:

1. Tanks meeting the department’s new tank standards set forth in 567—paragraph 135.3(1) “a” with automatic in-tank gauging acceptable under 567—subrule 135.5(4).

2. Tanks meeting the department’s new tank standards set forth in 567—paragraph 135.3(1) “a” with an electronic tank level monitor used in conjunction with a department-approved statistical reconciliation method acceptable under 567—subrule 135.5(4). The owner must have monthly records on premises which show that all requirements for statistical reconciliation have been met.

*c.* Piping upgrades. The following options are allowed for piping upgrades at any contaminated site:

(1) Double walled piping.

(2) Single walled piping installed in a barrier providing secondary containment between soil and the piping.

(3) Single wall piping meeting the department’s upgrade standards set forth in 567—paragraph 135.3(2) “c” and leak detection standards set forth in 567—paragraph 135.5(2) “b.”

*d.* Piping replacements. The following options are allowed for piping replacements:

- (1) For any contaminated site:
  1. Double walled piping.
  2. Single walled piping installed in a barrier providing secondary containment between soil and the piping.
  3. On suction systems, single wall piping when only one check valve is on the line directly under the pump.

(2) For sites which are not environmentally sensitive, suction systems with single wall piping meeting the department's upgrade standards set forth in 567—subrule 135.3(2) on pipes with leak detection are allowed if there is no more than one valve on the piping. All suction systems shall be installed with the slope of the pipe back to the tank and shall have only one check valve located directly under the suction pump.

*e.* Spill and overflow protection, cathodic protection, and leak detection. Nothing in this rule alters the department's upgrade requirements for spill and overflow protection, cathodic protection, and leak detection.

**11.4(6)** Tank and piping upgrades and replacements eligible for upgrade benefits.

*a.* The following tank and piping upgrades or replacements are eligible for upgrade benefits if completed on or before March 17, 1999:

- (1) Double walled tanks.
- (2) Single walled tanks meeting the department's requirements as specified in 567—paragraph 135.5(4)“g,” the tank zone providing an impermeable barrier between native soils and the tank, thus providing secondary containment.
- (3) Double walled piping.
- (4) Single wall piping installed in a barrier system, providing secondary containment between the soil and the piping. Nothing in this rule alters upgrade requirements for spill/overflow protection, cathodic protection and leak detection.

*b.* The following tank and piping upgrades and replacements are eligible for upgrade benefits when the tank upgrade or replacement occurs on or after March 25, 1992, and on or before March 17, 1999, on sites which are classified as being environmentally sensitive:

- (1) Pressurized systems: Tanks and piping shall comply with one of the tank and piping options specified in 11.4(6)“a.”
- (2) Suction systems: Tanks and piping shall be installed with the slope of the pipe back to the tank on all suction systems. All suction system pipes shall have the check valve located at the suction pump. These systems shall meet one of the options specified in 11.4(6)“a,” except that piping may be single wall when one check valve is on the line, under the pump.

*c.* The following tank and piping upgrades and replacements are eligible for upgrade benefits when the tank upgrade or replacement occurs on or after March 25, 1992, and on or before March 17, 1999, on sites which are not classified as being environmentally sensitive:

- (1) Pressurized systems: Piping shall comply with one of the pipe options specified in 11.4(6)“a.” Tanks installed must be either one of the options specified in 11.4(6)“a” or be a department-approved tank with automatic in-tank gauging pursuant to 567—subrule 135.5(4), or in lieu of automatic in-tank gauging, be a department-approved electronic tank level monitor in conjunction with a department-approved UST statistical inventory reconciliation method pursuant to 567—subrule 135.5(4). Should the statistical inventory reconciliation method be used, the owner shall have monthly records on premises showing that all requirements on the system have been met. If either the automatic in-tank gauging or the electronic level reconciliation device is used, the program shall pay only the cost of the system installed and not ongoing monthly or yearly expenses.

(2) Suction systems: Tanks and piping shall be installed with the slope of the pipe back to the tank on all suction systems. All suction system piping shall have the check valve located at the suction pump. These systems must be either one of the options specified in 11.4(6) “a”; or be:

1. Pipes: single wall pipes meeting department upgrade standards on the pipes with leak detection pursuant to 567—subrule 135.3(2). If more than one valve is on the pipe, this option is not available.

2. Tanks: must be either one of the options specified in 11.4(6) “a” or be a department-approved tank with automatic in-tank gauging pursuant to 567—subrule 135.5(4), or in lieu of automatic in-tank gauging, be a department-approved electronic tank level monitor in conjunction with a department-approved UST statistical inventory reconciliation method pursuant to 567—subrule 135.5(4). Should the statistical inventory reconciliation method be used, the owner shall have monthly records on premises showing that all requirements on the system have been met. If either the automatic in-tank gauging or the electronic level reconciliation device is used, the program shall pay only the cost of the system installed and not ongoing monthly or yearly expenses.

**11.4(7)** Any system upgrade or replacement installed prior to March 25, 1992, which complies with the provisions of this rule shall be eligible for upgrade benefits if the system has been fully upgraded or replaced in accordance with 567—Chapter 135.

**11.4(8)** The board reserves the right to establish cost controls on the purchase and installation of underground storage tank equipment and systems. Upgrade benefits are not equipment and capital improvements for purposes of Iowa Code section 455G.9(6).

**11.4(9)** Evidence of insurance or self-insurance shall be provided to the department upon completion of the upgrade or replacement unless the Iowa UST program provides insurance coverage. If the Iowa UST program provides coverage, the administrator will notify the department.

**11.4(10)** Failure to obtain approval or qualify for upgrade benefits may be appealed as provided in 591—Chapter 17.

**11.4(11)** Impact on cost of insurance. The cost of insurance will be directly impacted by the type of upgrade or replacement installation. In determining future costs of insurance coverage, the board shall assess the merit of each type of upgrade or replacement installation and establish a degree of risk and cost of actuarially determined premiums.

This rule is intended to implement Iowa Code sections 455B.474(1) “f”(8) and 455G.9(1) “a”(5).

**591—11.5(455G) Environmental damage offset.** Rescinded IAB 1/17/96, effective 12/29/95.

**591—11.6(455G) Soil remediation payments.**

**11.6(1)** When reviewing applications for benefits under Iowa Code chapter 455G for cost of remediating soils, the criteria in this rule shall apply when determining payment eligibility.

**11.6(2)** Overexcavation and remediation of soils will have the cost approved by the board or its administrator prior to exceeding excavation limits specified in this rule.

**11.6(3)** Excavation after completion of the site cleanup report shall be limited to the immediate tank zone and tank lines or piping on tanks registered by the department.

*a.* On sites where monitoring-in-place has been approved by the department, overexcavation may be approved to a maximum of the actual tank zone, plus six lineal feet out from the tank zone, and two feet below the tank itself, unless normal groundwater heights are above that level, and may be approved to a maximum of two feet deep below the line and three feet total width along the tank line.

*b.* On sites where monitoring-in-place has not been approved by the department, overexcavation may be approved to a maximum of the actual tank zone, plus six lineal feet out from the tank zone, and two feet below the tank itself, unless normal groundwater heights are above that level, and may be approved to a maximum of two feet deep below the line and three feet total width along the tank line.

**11.6(4)** If overexcavation occurs prior to completion of the site cleanup report (SCR), the SCR shall no longer be eligible for 100 percent reimbursement up to \$20,000 if approval of costs associated with the overexcavation and the scope of the work is not first approved by the board or the administrator. In such situations, the cost of the SCR will be paid as a remediation expense and subject to deductibles and copayments should approval not be obtained prior to proceeding.

**11.6(5)** Preapproval is required for overexcavation of any site, whether as a part of a remediation project or a tank upgrade or replacement, if the distances exceed board-authorized ranges set forth in subrule 11.6(3).

**11.6(6)** Rescinded IAB 3/26/97, effective 4/30/97.

**591—11.7(455G) Prioritization of remedial account benefits and expenses.** Rescinded IAB 1/17/96, effective 12/29/95.

**591—11.8(455G) Payments for conducting RBCA analysis on “monitor only” sites.**

**11.8(1)** When reviewing applications for benefits for the cost of completing an RBCA analysis on a site which has an approved SCR requiring “monitoring only,” or on a site with an SCR submitted between August 15, 1996, and January 31, 1997, the criteria in this rule shall apply when determining payment eligibility.

**11.8(2)** Tier 1, Tier 2, and Tier 3 risk-based corrective action analysis must have budgets preapproved by the board or its administrator prior to any costs being incurred.

**11.8(3)** Benefits shall be limited to those costs associated with activities which are required to be completed in order for a Tier 1, Tier 2, or Tier 3 to be accepted by the department and which will determine the risk associated with the site.

**11.8(4)** Only sites which are currently eligible for benefits under this chapter are eligible for reimbursement of costs associated with activities under this rule.

**11.8(5)** One hundred percent of the costs may be preapproved not to exceed \$10,000 for all activities associated with the completion of the Tier 1, Tier 2, or Tier 3 analysis. Costs which exceed \$10,000 will be subject to the limitations of Iowa Code section 455G.9(1)“f.”

These rules are intended to implement Iowa Code section 455B.474 and chapter 455G.

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∅Two or more ARCs

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